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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,546	06/05/2001	Dan Kikinis	007287.00046	6897
22907 7590 01/07/2008 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER SALCE, JASON P	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 01/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/875,546

Applicant(s)

KIKINIS, DAN

Examiner

Jason P. Salce

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-7, 9, 12-15, 17, 20-23 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-7, 9, 12-15, 17, 20-23 and 25-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/2007 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1, 4-7, 9, 12-15, 17, 20-23 and 25-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 7, 9, 12, 15, 17, 20, 23 and 25-30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nelson (U.S. Patent No. 5,710,605).

Referring to claim 1, Nelson discloses a video display (**see Column 5, Lines 46-48 for a television**) configured to communicate with a receiving system (**see Column**

5, Lines 8-13 and Lines 24-27 and Lines 46-48 for the television receiving television programs from either cable, a satellite dish or other conventional broadcast methods) and to display a video broadcast (the examiner notes that a television inherently displays television programming received by any of the receiving methods mentioned above and further note Column 5, Lines 52-54).

Nelson also discloses a computing device (**see Figure 6**) configured to communicate with the receiving system (**see Column 5, Lines 52-54 for communicating with the satellite receiving dish**), the computing device having a second display (**see display 20 in Figure 6**) configured to concurrently display an EPG corresponding to the video broadcast (**see Figure 7**), wherein the computing device and the video display are configured to display at least a portion of the EPG on the video display while concurrently displaying at least a portion of the EPG on the second display (**see Column 6, Lines 6-8 and Figure 4**).

Referring to claim 4, Nelson discloses that the computing device is a wireless device (**see Column 6, Line 65 through Column 7, Line 4**).

Referring to claim 7, Nelson discloses that the video display comprises the display of a television system (**see Column 6, Lines 6-8**).

Referring to claim 9, Nelson discloses receiving, at a computing device (**see the rejection of claim 1**) in communication with a first video display (**see the rejection of**

claim 1), program listing data associated with a video broadcast being displayed on the first video display (**see Column 5, Lines 16-26**), the computing device having a second display (**see the rejection of claim 1**).

Nelson also discloses displaying on the second display an EPG based on the received program listing data (**see the rejection of claim 1**) and corresponding to the video broadcast being displayed on the first display (**see Column 5, Lines 16-27**).

Nelson also discloses receiving user input at the computing device corresponding to a request to display at least a portion of the EPG on the first video display while concurrently displaying at least a portion of the EPG on the second display (**see the rejection of claim 1**).

Nelson also discloses causing at least a portion of the EPG to be displayed on the first video display while concurrently displaying at least a portion of the EPG on the second display (**see the rejection of claim 1**).

Referring to claims 12 and 15, see the rejection of claims 4 and 7, respectively.

Referring to claims 17, 20 and 23, see the rejection of claims 9, 4 and 7, respectively.

Referring to claims 25-27, Nelson discloses displaying the entire EPG on the video display concurrently while displaying the entire EPG on the second display (**see again Column 6, Lines 6-8**).

Referring to claims 28-30, Nelson discloses that the computing device is configured to transmit a signal to the receiving system corresponding to an instruction to display at least a portion of the EPG on the video display concurrently while at least a portion of the EPG is displayed on the second display (see **Column 6, Lines 6-8**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-6, 13-14 and 21-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (U.S. Patent No. 5,710,605) in view of Ellis et al. (U.S. Patent No. 6,774,926).

Referring to claims 5-6, Nelson discloses all of the limitations in claim 1, but fail to teach that the computing device is a PDA or web phone.

Ellis discloses that a computing device can be a PDA or web phone (see **Column 6, Lines 23-27 and Lines 66-67 and Column 8, Lines 59-64**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the computing device, as taught by Nelson, using the PDA or web phone, as taught by Ellis, for the purpose of taking advantage of using devices that the viewer/user already owns to perform the various television control functionality.

Referring to claims 13-14, see the rejection of claims 5-6, respectively.

Referring to claims 21-22, see the rejection of claims 5-6, respectively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623

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January 2, 2008

JASON SALCE
PRIMARY PATENT EXAMINER

A handwritten signature in black ink, appearing to read "Jason Salce", written over the printed name.